

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

J&J SPORTS PRODUCTIONS, INC.,)	Case No.: 10-CV-05521-LHK
)	
Plaintiff,)	ORDER EXTENDING TIME TO SERVE
)	SUMMONS AND COMPLAINT
v.)	
)	
JOSE VIDALES, D/B/A TAQUERIA EL)	(re: dkt. #10)
GALLO,)	
)	
Defendant.)	
)	
)	

Plaintiff filed an ex parte application for an order extending time for an additional 30 days to serve the Summons and Complaint upon Defendant Jose A. Vidales, individually and doing business as Taqueria El Gallo ("Defendant"). *See* Dkt. #10. Good cause appearing, the Court GRANTS an extension of time to serve the summons and complaint on Defendant until **May 3, 2011**.

I. BACKGROUND

Plaintiff filed the instant action on December 6, 2010. On the same day, this Court issued summons as to Defendant. Counsel for Plaintiff states that he has not yet been able to serve Defendant, despite diligent efforts, but that it recently identified an alternative address that it

believes will be successful. Plaintiff therefore moves ex parte to extend the time to serve Defendant by 30 days.

II. ANALYSIS

The time for serving the summons and complaint is set forth in Federal Rule of Civil Procedure 4(m). Generally, service upon defendants must be made within 120 days after the complaint is filed. Fed. R. Civ. Pro. 4(m). However, if the plaintiff shows good cause for failure to serve within the 120-day period, the court is required to extend time for service. *Id.* Under Rule 4, a court also has discretion to extend the time for service in the absence of good cause. *Lemoge v. U.S.*, 587 F.3d 1188, 1198 (9th Cir. 2009).

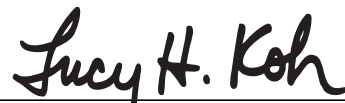
Plaintiff's process server had made ten different attempts to serve Defendant, but has been unable to perfect service at the particular address. *See* Exh. 1 to Pl.'s Ex Parte Motion. Despite these efforts and difficulty serving Defendant, Plaintiff now contends that it has identified an address it believes will be successful in perfecting service. Under these circumstances, Plaintiff has established good cause to extend the time for service. As there is a Case Management Conference set in this case for May 11, 2011, the Court will grant an extension until May 3, 2011.

III. CONCLUSION

For the foregoing reasons, Plaintiff's motion to extend time for serving the summons and complaint is GRANTED. Plaintiff may serve Defendant with the summons and complaint, and file proof of service with the Court, no later than May 3, 2011.

IT IS SO ORDERED.

Dated: April 7, 2011



LUCY H. KOH
United States District Judge